

**Resolution Agreement**  
**Appleton Area School District (05-11-5001)**

Appleton Area School District (District) voluntarily submits the following Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve the above-referenced compliance review, and to ensure its compliance with Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and its implementing regulation at 34 C.F.R. Part 100, Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulation at 28 C.F.R. Part 35.

**I. Access to Charter Schools for English Language Learner students**

- A. By December 31, 2014, the District will develop, and submit for OCR review and approval, a plan to ensure equal access and equal opportunity English Language Learner (ELL) students to participate in the District's charter schools. As part of the plan, the District will take the following steps:
1. Provide meaningful access to the same admissions and other school-related information to national origin minority, limited English proficient parents and guardians (LEP parents) as it provides to English-proficient parents in a manner and form they can understand, such as by providing free interpreter and/or translation services. Requirements relating to this provision are specified in more detail in Item II of this Agreement.
  2. Ensure that its charter school application and recruiting materials contain a notice of nondiscrimination that complies with the regulations implementing Title VI, Section 504, and Title II (See 34 C.F.R. Sections 100.6(d), 104.8, and 28 C.F.R. Section 35.106. respectively.)
  3. Review, and revise as necessary, the admission and enrollment policies and procedures for charter schools with selective admission criteria (*i.e.*, minimum test scores, recommendations, prerequisite courses, etc.) to ensure that ELL students have equal opportunities to qualify for, and participate in, these charter schools. Specifically, the District will revise admission and enrollment policies and procedures to:
    - a. Ensure that referral and admission to selective charter schools are based on a student's ability, and not the student's English language proficiency;
    - b. Provide training for relevant District staff (*e.g.*, teachers, counselors, gifted and talented teachers) to ensure that they are aware of the criteria and procedures for providing ELL students with equal opportunity to participate in selective charter schools, including, but not limited to, special programs and extracurricular programs and activities offered by the charter schools, if available; and
    - c. Provide written clarification to District staff, including charter school staff, that ELL students may be recommended or referred for, and participate in selective admission charter schools.

4. The District will identify charter school students with a primary home language other than English (PHOLE students) and LEP charter school parents through the use of a Home Language Surveys for all students who enroll in the charter schools. The Home Language Survey will be translated into Spanish, Hmong and any other predominant languages other than English. For lower incidence languages, the District will have translated versions of the survey available or will advise LEP parents, in a language they understand, of whom to contact at the District if they need assistance in understanding or completing the survey.
5. The District will promptly and objectively assess potential ELL students enrolled in charter school to determine the student's English proficiency in reading, writing, speaking and understanding English. The District will notify parents of the level of performance that qualifies students for ELL services, the placement determination regarding participation in the ELL program, and the services that will be provided by the District and charter schools to the ELL student. The District will notify LEP parents of students enrolled in charter schools of the assessment results in a language they understand and the services to be provided in a language they understand.
6. The District will provide language development services (*i.e.*, ELL services) that are necessary for effective participation of qualified ELL students in all of the District's charter schools. The plan will specifically outline how it will provide English language services and instruction necessary for effective participation to ELL students enrolled in the charter schools. The approach/methodology must be recognized as sound by some experts in the field or recognized as a legitimate educational strategy.
7. The District will provide language support services for students whose parents have opted them out of the District's language development services at a charter school. The District also will periodically notify parents who have opted out of language development services for their charter school students in their home language that language development services are available at the District's charter schools. Specifically, the District will inform LEP parents that the student remains eligible to receive District ELL services and participate in ELL programs.
8. The District will develop a system to maintain records for all ELL students enrolled in charter schools that will include information that allows the District to track the services provided to ELL students, such as student name, school grade level, assessment results, proficiency level, and the type amount and time of language services to be provided.
9. The District will ensure that ELL staff who provide services to students enrolled in charter schools are qualified for their positions. Additionally, the District will ensure that ELL program staffing is sufficient to provide ELL students enrolled at the charter schools the ELL services necessary to meet their needs.
10. The District will ensure that ELL program instructional services provided to charter schools are appropriate to the ELL program and grade level of the students it serves. The District

will also ensure that the instructional materials are comparable in quality and scope to the materials provided to all students.

11. The District will ensure that the facilities and locations in which it delivers ELL instruction and services to students enrolled in charter schools are both adequate to program needs and comparable in size and quality to the facilities and locations in which all students are educated.
12. The District will monitor the progress of ELL students enrolled in charter schools in order to identify students not making adequate progress toward meeting the ELL program goals. The District, in consultation with each charter school, will identify the specific interventions that it will provide to the ELL students enrolled in the charter schools who do not exhibit adequate progress. The District will document the monitoring as well as the special interventions that it provides to individual ELL students enrolled in charter schools.
13. The District will continue to ensure that it does not separate ELL students enrolled in charter schools from their non-ELL peers, except to the extent such separation is necessary to the stated goals of the ELL program.
14. The District will ensure that it appropriately identifies ELL students enrolled in charter schools who need or are believed to need special education services. The District will obtain input from relevant ELL staff and charter school staff when a group of knowledgeable persons evaluates, reevaluates, or makes placement decisions for ELL students who are enrolled in charter schools.
15. The District will articulate appropriate criteria for determining when the District should exit an ELL charter school student from the ELL program. The District will also ensure that ELL program personnel monitor the academic and English language proficiency of charter school students exited from the ELL program for at least two years after their exit from the ELL program. The District will ensure that ELL personnel monitoring the exited student will consider, at minimum, report cards, progress reports, teacher input, and standardized test scores to determine whether to place the ELL charter school student back in ELL program. The District will assess whether each charter school student exited from the ELL program is able to achieve without ELL program services (including by reviewing grades and academic achievement data) and if an exited student is unable to achieve without ELL program services, the District will determine the ELL services provided by the District to the ELL charter school student. The District will promptly notify ELL charter school students' parents of the assessment results in a language they understand and the ELL services to be provided in a language they understand.
16. The District will review, revise and implement a program and criteria for annually evaluating the effectiveness of its ELL program in providing ELL students enrolled in charter schools a meaningful opportunity to develop English-language skills and benefit from the charter schools' educational programs. The District will ensure that it makes prompt and appropriate changes to its ELL programs based on the evaluation.

- B. Within 30 days of the District's receipt of written notification of OCR's approval of the plan developed in accordance with section I.A. of this Agreement, the District will adopt and implement the plan, and will provide all charter school administrators and teachers, bilingual/ELL program teachers, gifted and talented teachers, guidance counselors and any other staff involved in charter school recruiting, enrollment, and programming written notice of the plan and any related changes to the District's policies and procedures. If OCR has any objections to the plan submitted by the District for review, OCR will notify the District of its objections promptly, no later than 60 calendar days after receiving the draft plan.
- C. Within 60 days of OCR's approval of the plan developed in accordance with Section I.A., the District will provide training to all charter school administrators and teachers, bilingual/ELL program teachers, gifted and talented teachers, guidance counselors and any other staff involved in charter school recruiting, enrollment, and programming regarding the plan, any related changes to the District's policies and procedures, and training required in section I.A.3.c of this Agreement.

**REPORTING REQUIREMENTS:**

1. By December 31, 2014, the District will submit to OCR for review and approval its plan developed pursuant to section I.A. of this Agreement. Additionally, the District will submit documentation, including but not limited to, its Home Language Survey, any data collected pursuant to the development of the plan, such as a list of instruction materials used with ELL students enrolled in charter schools and documentation demonstrating that the materials are appropriate, documents demonstrating monitoring of progress of ELL students enrolled in charter schools, staffing information, a list of all students who exited the ELL program who were enrolled in charter schools during the 2013-14 and 2014-15 (to date) school years and an indication of whether each student was able to achieve without ELL program services, including grades and academic achievement data, and information about where ELL students enrolled in charter schools are receiving ELL services. If a student enrolled in charter school was unable to achieve without ELL program services, provide documentation that the student was again provided with ELL services and appropriate notice provided to the student's parents.
2. By September 30, 2015, and by the same date annually thereafter, the District will submit to OCR documentation showing documentation of its implementation of its approved plan. This documentation will include, but not be limited to: the total number of ELL charter school students enrolled, by grade level and proficiency level; the total number of ELL students enrolled in charter schools who receive alternative language program services; and the ELL program services provided to each student enrolled in charter schools including information about the students' grade and proficiency levels. For each ELL student enrolled in a charter school not included in the ELL program, provide documentation showing the student's grade level, proficiency level, reason for not receiving services, and a statement of the language support services being provided to the student and description of the student's academic progress and whether the student was able to participate meaningfully in the

regular instructional program. For any ELL student enrolled in a charter school who is not being provided services because the parent opted out, the District will provide to OCR a copy of the information provided to the parent/guardian of the unserved student and information about other language support provided to the student.

3. By September 30, 2015, the District will provide OCR with copies of the written notices regarding the plan and any related policy and procedural changes pursuant to terms of section I.B. of this Agreement.
4. By September 30, 2015, the District will provide OCR with documentation that it has satisfied the terms of section I.C. of this Agreement, including documentation of the dates of the training, the names and titles of the trainer(s), a copy of materials used or distributed during the training, and a sign-in sheet with the names and titles of the individuals who attended the training.

By September 30, 2015, the District will provide to OCR a year-end report demonstrating its implementation of the evaluation conducted pursuant to section I.A.15., of this Agreement, including copies of evaluation reports, conclusions and recommendations, and whether the District is implementing the recommendations. Throughout the course of this agreement, the District will submit for OCR review and approval any changes to the plan approved by OCR prior to their implementation.

## **II. Parent Communication**

- A. By December 31, 2014, the District will review, and revise as necessary, and submit for OCR review and approval its policies and procedures to ensure that it provides meaningful access to national origin minority, limited English proficient (LEP) parents and guardians (LEP parents) to the District's charter school programs and activities. The policies and procedures will ensure that LEP parents are notified, in a language understood by the parents, of information about charter school programs and activities that is called to the attention of other non-LEP parents. These policies and procedures will:
  1. Specify how the District will provide language assistance services, including interpreters and written translations, to LEP parents, including parents from lower incidence language groups. Where translation is required, the District will translate the documents into predominant languages to the extent these are provided in English. For lower incidence languages, or where translations are not feasible, the District and its charter schools will ensure that LEP parents have been advised, in a language they can understand, of who to contact in the District if they need assistance in understanding notices or communication with the District or charter school staff. The policies and procedures must ensure that:
    - i. The District will translate district-wide notices and commonly used documents (*e.g.*, report cards, standardized test scores, etc.) into

- predominant languages and will notify charter school staff of the documents the District has translated and where they can be obtained;
- ii. The District or charter school will translate school-based written notices and documents that are routinely sent home to non-LEP parents in English;
  - iii. The District or charter school will provide language assistance services at:
    - (a) all school-wide events, school tours, registration and enrollment, parent-teacher conferences, disciplinary conferences, and student support services meetings (*i.e.*, Section 504 team meetings, Individual Education Plan (IEP) meetings); and (b) enrollment and recruiting events (*e.g.*, charter school fairs, informational meetings, open houses, school tours).
  - iv. The District will notify LEP parents about the District's charter schools, the benefits and services of the charters schools, and the schools' admission criteria, application and enrollment processes, the availability of language assistance services for LEP parents (*i.e.*, interpreters and translators), the availability of language development services for ELL students, and the name and contact information for a staff person who can answer questions about the charter school program.
  - v. The District and charter schools will translate promotional materials for charter schools (*e.g.*, brochures, flyers, letters, postcards, emails, etc.), including admission and enrollment materials;
2. Specify a process by which charter school staff may obtain, in a timely manner, language assistance services, including qualified translators or interpreters as needed. The policies and procedures will also notify charter school staff of the applicable record keeping procedures and reporting requirements. The District's means for providing these services must be well-published and accessible to charter school staff.
  3. Include a process by which the District ensures that that interpreters and translators are competent to provide interpretation and translation services and have been appropriately trained regarding the role of interpreter and translator, the ethics of interpreting and translating, and the need to maintain confidentiality. The District will also ensure that interpreters and translators have knowledge of any specialized terms or concepts peculiar to the District's charter schools and activities.
  4. Include a process to identify and track LEP parents who require communication in a language other than English, including ensuring that charter school administrators, teachers and office personnel are notified of these LEP parents.
  5. Specify how LEP parents will have notice of and access to language assistance services at charter schools and charter school-related events. The notice will, at a minimum, be published in a language LEP parents can understand on the District's website, individual charter school websites, and in the District and

charter school student and parent handbooks. The notification will also provide parents with a contact person who can answer questions regarding language assistance services and assist LEP parents with access to interpreter services or translated documents.

6. Include a process of tracking interpreter and translator requests and language assistance services provided by charter schools. The District will evaluate this information and the effectiveness of communication with LEP parents on an annual basis to ensure that the communication needs of LEP parents are being timely and effectively met with respect to the District's charter schools.
- B. Following written notification of OCR's approval of the LEP parent communication policies and procedures submitted in accordance with section II.A. of this Agreement, the District will within 30 days adopt and implement the policies and procedures and provide written notice of the policies and procedures to all charter school administrators, teachers, bilingual/ELL program teachers, guidance counselors, or other staff who interact with LEP charter school parents.
- C. Within 60 days of OCR's approval of the LEP parent communication policies and procedures, the District will provide training to all charter school administrators and teachers, bilingual/ELL program teachers, and other staff involved in charter school recruiting, enrollment on its LEP parent communication policies and procedures for effectively communicating with LEP parents. Staff training will include the following: when and how to obtain qualified language assistance; the importance of effective communication with LEP parents; use of interpreters when staff receive or make calls to LEP parents; use of interpreters during in-person contact with LEP parents; how to work effectively with interpreters; the impact of ethnic and cultural differences on effective communication, and applicable record-keeping procedures and reporting requirements.

#### **REPORTING REQUIREMENTS:**

1. By January 15, 2015, the District will submit to OCR for review and approval its revised LEP parent communication policies and procedures pursuant to section II.A. of this Agreement. If OCR has any objections to the plan submitted by the District for review, OCR will notify the District of its objections promptly, no later than 60 calendar days after receiving the draft plan.
2. Within 60 days of OCR's approval of the LEP parent communication policies and procedures, the District will provide OCR with copies of the written notices of the policies and procedures for effectively communicating with LEP parents pursuant to section II.B. of this Agreement.
3. Within 90 days of OCR's approval of the LEP parent communication policies and procedures, the District will provide OCR with documentation that it has satisfied the terms of section II.C. of this Agreement, including documentation of the dates of the training, the

names and titles of the trainer(s), a copy of materials used or distributed during the training, and a sign-in sheet with the names and titles of the individuals who attended the training.

### **III. SECTION 504 AND TITLE II: PHYSICAL AND PROGRAM ACCESSIBILITY**

The District will ensure that its charter school programs and activities are readily accessible to and usable by individuals with disabilities. The District will address each compliance concern about the District's existing facilities and new construction as enumerated in Attachment A, which is incorporated by reference into this Agreement. To the extent the District alters or renovates existing facilities or parts of facilities, or constructs new facilities, such alterations, renovations and new construction will conform to the 2010 ADA Standards for Accessible Design (ADA Standards).

#### **Notice**

- A. By December 31, 2014, the District will adopt and implement procedures to ensure that interested persons can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by persons with disabilities. When the District elects to reassign programs and activities to accessible buildings from existing facilities that are inaccessible, the District will provide notice to interested persons of its election to provide program access in that manner.

#### **Existing Facilities<sup>1</sup>**

- B. Effective immediately, the District will ensure that no student is denied access to its charter school programs, activities and services because of the inaccessibility of existing facilities. In the most expeditious manner, but by September 30, 2015, the District will operate charter school programs, activities and services offered in existing facilities so that, when viewed in their entirety, they are readily accessible to persons with disabilities. The District may comply with this requirement, called program access, through the redesign of equipment, reassignment of classes or other services to accessible buildings, alteration of existing facilities and construction of new facilities, or any other method that results in making each of its programs and activities accessible to persons with disabilities. The District is not required to make structural changes in existing facilities where other methods are effective in achieving compliance. In choosing among available methods for meeting the requirements of the statutes, the District must give priority to methods that offer programs, activities and services to disabled persons in the most integrated setting appropriate. However, if the District elects to provide the charter school programs, activities and services in the present existing facility, the District will ensure that the facility is accessible and that all charter school programs and activities at the various facilities are provided in an accessible location. Existing facilities that require structural changes will be completed by September 30, 2016.

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<sup>1</sup> Under Section 504, an "existing facility" is a building, or part thereof, where construction was commenced on or before June 2, 1977. Under Title II, an "existing facility" is a building, or part thereof, where construction was commenced on or before January 25, 1992."

**New Construction**<sup>2</sup>

- C. By September 30, 2015, the District will make physical modifications to its new construction facilities to ensure that such facilities are readily accessible to and usable by individuals with disabilities. The District agrees that all physical modifications made will comply with the accessibility requirements of Section 504 and Title II and their implementing regulations.

**REPORTING REQUIREMENTS:**

1. By December 31, 2014, the District will provide OCR with a report that includes the notices disseminated pursuant to section III.A. of this Agreement; a description of the methods used to disseminate the notices; and a list of the publications in which the notices appear.
2. By December 31, 2014, the District will submit for OCR review and approval its plan and procedures for providing access to its charter school programs to individuals with disabilities in accordance with section III.B. of this Agreement. If OCR has any objections to the plan submitted by the District for review, OCR will notify the District of its objections promptly, no later than 60 calendar days after receiving the draft plan. The District's plan will include a detailed description of any planned physical modifications to its existing facilities and new construction identified in Attachment A, including the schedule for completing such modifications.
3. By October 30, 2015, March 31, 2016, and October 31, 2016, the District will provide OCR with a report demonstrating its progress in completing the facilities modifications pursuant to sections II.B. and II.C. of this Agreement.
4. By March 31, 2017, the District will provide OCR with a report that includes documentation demonstrating that it has completed the facilities modifications pursuant to sections II.B. and II.C. of this Agreement along with specifications, prints, drawings, and photographs with sufficient detail to demonstrate that the modifications were made consistent with) ADA standards.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that, during the monitoring of this Agreement, OCR will visit District schools, interview District staff, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title VI at 34 C.F.R. §§ 100.3 and 100.6(d), Section 504 at 34 C.F.R. §§ 104.8, 104.21, 104.22 and 34 C.F.R. § 104.23(b), Title II at 28 C.F.R. §§ 35.106, 35.150, 35.151, and 35.163, which were at issue in this compliance review.

The District understands that OCR will not close the monitoring of this Agreement until OCR

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<sup>2</sup> The Section 504 regulations at 34 C.F.R. § 104.23 apply to any facility or part of a facility where construction was commenced on or after June 3, 1977. The regulations implementing Title II at 28 C.F.R. § 35.151 apply to any facility or part of a facility where construction was commenced after January 26, 1992. These facilities are termed, "new construction" and the altered portion of existing facilities are termed, "alterations."

determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title VI at 34 C.F.R. §§ 100.3 and 100.6(d), Section 504 at 34 C.F.R. §§ 104.8, 104.21, 104.22 and 34 C.F.R. § 104.23(b), and Title II at 28 C.F.R. §§ 35.106, 35.150, 35.151, and 35.163, which were at issue in this compliance review.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

FOR THE DISTRICT  
Appleton, Wisconsin

/s/

December 16, 2014

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Superintendent

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Date